

FILED

13 JUN 24 PM 2:59

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SOPHIA & CHLOE, INC., a California
corporation,

Plaintiff,

vs.

BRIGHTON COLLECTIBLES, INC., a
California corporation

Defendant.

Case No. 12-CV-2472 AJB KSC

Honorable Anthony J. Battaglia

Magistrate Judge Karen S. Crawford

**STIPULATED PROTECTIVE
ORDER**

Trial Date: None Set

12-CV-2472-AJB(KSC)

STIPULATED PROTECTIVE ORDER

1 The Court recognizes that at least some of the documents and information
2 (“materials”) being sought through discovery in the above-captioned action are, for
3 competitive reasons, normally kept confidential by the parties. The parties have
4 agreed to be bound by the terms of this Protective Order (“Order”) in this action.

5 The materials to be exchanged throughout the course of the litigation between
6 the parties may contain trade secret or other confidential research, technical, cost,
7 price, marketing or other commercial information, as is contemplated by Federal
8 Rule of Civil Procedure 26(c)(1)(7). The purpose of this Order is to protect the
9 confidentiality of such materials as much as practical during the litigation.

10 THEREFORE:

11 **DEFINITIONS**

12 1. The term “Confidential Information” will mean and include
13 information contained or disclosed in any materials, including documents, portions
14 of documents, answers to interrogatories, responses to requests for admissions, trial
15 testimony, deposition testimony, and transcripts of trial testimony and depositions,
16 including data, summaries, and compilations derived therefrom that is deemed to be
17 Confidential Information by any party to which it belongs.

18 2. The term “materials” will include, but is not be limited to: documents;
19 correspondence; memoranda; bulletins; blueprints; specifications; customer lists or
20 other material that identify customers or potential customers; price lists or schedules
21 or other matter identifying pricing; minutes; telegrams; letters; statements; cancelled
22 checks; contracts; invoices; drafts; books of account; worksheets; notes of
23 conversations; desk diaries; appointment books; expense accounts; recordings;
24 photographs; motion pictures; compilations from which information can be obtained
25 and translated into reasonably usable form through detection devices; sketches;
26 drawings; notes (including laboratory notebooks and records); reports; instructions;
27 disclosures; other writings; models and prototypes and other physical objects.

28 3. The term “counsel” will mean outside counsel of record, and other

1 attorneys, paralegals, secretaries, and other support staff employed in the law firms
2 of Chapin Fitzgerald LLP, Browne George Ross LLP, Law Offices of Gary
3 Freedman, and Winton Law Corporation.

4 **GENERAL RULES**

5 4. Each party to this litigation that produces or discloses any materials,
6 answers to interrogatories, responses to requests for admission, trial testimony,
7 deposition testimony, and transcripts of trial testimony and depositions, or
8 information that the producing party believes should be subject to this Protective
9 Order may designate the same as "CONFIDENTIAL" or "CONFIDENTIAL - FOR
10 COUNSEL ONLY."

11 a. Designation as "CONFIDENTIAL": Any party may designate
12 information as "CONFIDENTIAL" only if, in the good faith belief of such party and
13 its counsel, the unrestricted disclosure of such information could be potentially
14 prejudicial to the business or operations of such party.

15 b. Designation as "CONFIDENTIAL - FOR COUNSEL ONLY":
16 Any party may designate information as "CONFIDENTIAL - FOR COUNSEL
17 ONLY" only if, in the good faith belief of such party and its counsel, the
18 information is among that considered to be most sensitive by the party, including but
19 not limited to trade secret or other confidential research, development, financial, or
20 other commercial information.

21 5. In the event the producing party elects to produce materials for
22 inspection, no marking need be made by the producing party in advance of the
23 initial inspection. For purposes of the initial inspection, all materials produced will
24 be considered as "CONFIDENTIAL - FOR COUNSEL ONLY," and must be
25 treated as such pursuant to the terms of this Order. Thereafter, upon selection of
26 specified materials for copying by the inspecting party, the producing party must,
27 within a reasonable time prior to producing those materials to the inspecting party,
28 mark the copies of those materials that contain Confidential Information with the

1 appropriate confidentiality marking.

2 6. Whenever a deposition taken on behalf of any party involves a
3 disclosure of Confidential Information of any party:

- 4 a. the deposition or portions of the deposition must be designated as
5 containing Confidential Information subject to the provisions of
6 this Order; such designation must be made on the record
7 whenever possible, but a party may designate portions of
8 depositions as containing Confidential Information after
9 transcription of the proceedings; a party will have until fourteen
10 (14) days after receipt of the deposition transcript to inform the
11 other party or parties to the action of the portions of the transcript
12 to be designated "CONFIDENTIAL" or "CONFIDENTIAL –
13 FOR COUNSEL ONLY."
- 14 b. the disclosing party will have the right to exclude from
15 attendance at the deposition, during such time as the Confidential
16 Information is to be disclosed, any person other than the
17 deponent, counsel (including their staff and associates), the court
18 reporter, and the person(s) agreed upon pursuant to paragraph 8
19 below; and
- 20 c. the originals of the deposition transcripts and all copies of the
21 deposition must bear the legend "CONFIDENTIAL" or
22 "CONFIDENTIAL - FOR COUNSEL ONLY," as appropriate,
23 and the original or any copy ultimately presented to a court for
24 filing must not be filed unless it can be accomplished under seal,
25 identified as being subject to this Order, and protected from
26 being opened except by order of this Court.

27 7. All Confidential Information designated as "CONFIDENTIAL" or
28 "CONFIDENTIAL - FOR COUNSEL ONLY" must not be disclosed by the

1 receiving party to anyone other than those persons designated within this Order and
2 must be handled in the manner set forth below and, in any event, must not be used
3 for any purpose other than in connection with this litigation, unless and until such
4 designation is removed either by agreement of the parties, or by order of the Court.

5 8. Information designated "CONFIDENTIAL - FOR COUNSEL ONLY"
6 may be viewed only by counsel (as defined in paragraph 3) of the receiving party,
7 and by independent experts, provided each such individual has read this Order in
8 advance of disclosure and has agreed to be bound by its terms.

9 9. Information designated "CONFIDENTIAL" must be viewed only by
10 counsel (as defined in paragraph 3) of the receiving party, by independent experts,
11 and by the additional individuals listed below, provided each such individual has
12 read this Order in advance of disclosure and has agreed to be bound by its terms:

13 a. Executives who are required to participate in policy decisions
14 with reference to this action;

15 b. Technical personnel of the parties with whom Counsel for the
16 parties find it necessary to consult, in the discretion of such counsel, in preparation
17 for trial of this action; and

18 c. Stenographic and clerical employees associated with the
19 individuals identified above.

20 10. With respect to material designated "CONFIDENTIAL" or
21 "CONFIDENTIAL - FOR COUNSEL ONLY," any person indicated on the face of
22 the document to be its originator, author, or a recipient of a copy of the document,
23 may be shown the same.

24 11. All information which has been designated as "CONFIDENTIAL" or
25 "CONFIDENTIAL - FOR COUNSEL ONLY" by the producing or disclosing
26 party, and any and all reproductions of that information, must be retained in the
27 custody of the counsel for the receiving party identified in paragraph 3, except that
28 independent experts authorized to view such information under the terms of this

1 Order may retain custody of copies such as are necessary for their participation in
2 this litigation.

3 12. Before any materials produced in discovery, answers to interrogatories,
4 responses to requests for admissions, deposition transcripts, or other documents
5 which are designated as Confidential Information are filed with the Court for any
6 purpose, the party seeking to file such material must seek permission of the Court to
7 file the material under seal. Nothing shall be filed under seal, and the Court shall
8 not be required to take any action, without separate prior order by the Judge before
9 whom the hearing or proceeding will take place, after application by the affected
10 party with appropriate notice to opposing counsel. The parties shall follow and
11 abide by applicable law, including Civ. L.R. 79.2, ECF Administrative Policies and
12 Procedures, Section II.j, and the chambers' rules, with respect filing documents
13 under seal.

14 13. At any stage of these proceedings, any party may object to a
15 designation of the materials as Confidential Information. The party objecting to
16 confidentiality must notify, in writing, counsel for the designating party of the
17 objected-to materials and the grounds for the objection. If the dispute is not
18 resolved consensually between the parties the parties shall resolve the dispute under
19 the chamber rules of Magistrate Judge Crawford, rules V(A), V(B), and V(D). The
20 materials at issue must be treated as Confidential Information, as designated by the
21 designating party, until the Court has ruled on the objection or the matter has been
22 otherwise resolved.

23 14. All Confidential Information must be held in confidence by those
24 inspecting or receiving it, and must be used only for purposes of this action.
25 Counsel for each party, and each person receiving Confidential Information must
26 take reasonable precautions to prevent the unauthorized or inadvertent disclosure of
27 such information. If Confidential Information is disclosed to any person other than
28 a person authorized by this Order, the party responsible for the unauthorized

1 disclosure must immediately bring all pertinent facts relating to the unauthorized
2 disclosure to the attention of the other parties and, without prejudice to any rights
3 and remedies of the other parties, make every effort to prevent further disclosure by
4 the party and by the person(s) receiving the unauthorized disclosure.

5 15. No party will be responsible to another party for disclosure of
6 Confidential Information under this Order if the information in question is not
7 labeled or otherwise identified as such in accordance with this Order.

8 16. If a party, through inadvertence, produces any Confidential Information
9 without labeling or marking or otherwise designating it as such in accordance with
10 this Order, the designating party may give written notice to the receiving party that
11 the document or thing produced is deemed Confidential Information, and that the
12 document or thing produced should be treated as such in accordance with that
13 designation under this Order. The receiving party must treat the materials as
14 confidential, once the designating party so notifies the receiving party. If the
15 receiving party has disclosed the materials before receiving the designation, the
16 receiving party must notify the designating party in writing of each such disclosure.
17 Counsel for the parties will agree on a mutually acceptable manner of labeling or
18 marking the inadvertently produced materials as "CONFIDENTIAL" or
19 "CONFIDENTIAL – FOR COUNSEL ONLY."

20 17. Nothing in this Order will prejudice the right of any party to object to
21 the production of any discovery material on the grounds that the material is
22 protected as privileged or as attorney work product.

23 18. Nothing in this Order will bar counsel from rendering advice to their
24 clients with respect to this litigation and, in the course thereof, relying upon any
25 information designated as Confidential Information, provided that the contents of
26 the information must not be disclosed.

27 19. This Order will be without prejudice to the right of any party to oppose
28 production of any information for lack of relevance or any other ground other than

1 the mere presence of Confidential Information. The existence of this Order must not
2 be used by either party as a basis for discovery that is otherwise improper under the
3 Federal Rules of Civil Procedure.

4 20. Nothing in this Order will be construed to prevent disclosure of
5 Confidential Information if such disclosure is required by law or by order of the
6 Court.

7 21. Upon final termination of this action, including any and all appeals,
8 counsel for each party must, upon request of the producing party, return all
9 Confidential Information to the party that produced the information, including any
10 copies, excerpts, and summaries of that information, or must destroy same at the
11 option of the receiving party, and must purge all such information from all machine-
12 readable media on which it resides. Notwithstanding the foregoing, counsel for each
13 party may retain all pleadings, briefs, memoranda, motions, deposition transcripts
14 and other documents filed with the Court that refer to or incorporate Confidential
15 Information, and will continue to be bound by this Order with respect to all such
16 retained information. Further, attorney work product materials that contain
17 Confidential Information need not be destroyed, but, if they are not destroyed, the
18 person in possession of the attorney work product will continue to be bound by this
19 Order with respect to all such retained information.

20 22. The restrictions and obligations set forth in this Order will not apply to
21 any information that: (a) the parties agree should not be designated Confidential
22 Information; (b) the parties agree, or the Court rules, is already public knowledge;
23 (c) the parties agree, or the Court rules, has become public knowledge other than as
24 a result of disclosure by the receiving party, its employees, or its agents in violation
25 of this Order; or (d) has come or will come into the receiving party's legitimate
26 knowledge independently of the production by the designating party. Prior
27 knowledge must be established by pre-production documentation.

28 23. The restrictions and obligations in this Order will not be deemed to

1 prohibit discussions of any Confidential Information with anyone if that person
2 already has or obtains legitimate possession of that information.

3 24. Transmission by facsimile is acceptable for all notification purposes
4 within this order.

5 25. This Order may be modified by agreement of the parties, subject to
6 approval by the Court.

7 26. The Court may modify the terms and conditions of this Order in the
8 interests of justice or for public policy reasons.

9 **IT IS SO ORDERED.**

10
11 Date: June 24, 2013


12
13
14 
15 KAREN S. CRAWFORD
16 United States Magistrate Judge
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT A

SOPHIA & CHLOE, INC., a California corporation,

Plaintiff,

vs.

BRIGHTON COLLECTIBLES, INC., a California corporation

Defendant.

Case No. 12-CV-2472 AJB KSC

Honorable Anthony J. Battaglia

**AGREEMENT TO BE BOUND BY
PROTECTIVE ORDER**

Trial Date: None Set

I, _____, declare and say that:

1. I am employed as _____ by _____.

2. I have read the Protective Order entered in _____ v. _____, Case No. _____, and have received a copy of the Protective Order.

3. I promise that I will use any and all "Confidential" or "Confidential - For Counsel Only" information, as defined in the Protective Order, given to me only

12-CV-2472-AJB(KSC)

1 in a manner authorized by the Protective Order, and only to assist counsel in the
2 litigation of this matter.

3 4. I promise that I will not disclose or discuss such "Confidential" or
4 "Confidential – For Counsel Only" information with anyone other than the persons
5 described in paragraphs 3, 8 and 9 of the Protective Order.

6 5. I acknowledge that, by signing this agreement, I am subjecting myself
7 to the jurisdiction of the United States District Court for the Southern District of
8 California with respect to enforcement of the Protective Order.

9 6. I understand that any disclosure or use of "Confidential" or
10 "Confidential – For Counsel Only" information in any manner contrary to the
11 provisions of the Protective Order may subject me to sanctions for contempt of
12 court.

13 I declare under penalty of perjury that the foregoing is true and correct.

14
15 Date: _____ Name: _____
16
17
18
19
20
21
22
23
24
25
26
27
28